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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/624,798	07/24/2000	Paul C Coffin	10001664-1	6517

22879 7590 01/06/2003

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

WATKO, JULIE ANNE

ART UNIT PAPER NUMBER

2652

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/624,798

Applicant(s)COFFIN ET AL. **Examiner**

Julie Anne Watko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 and 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Each independent claim recites the limitation "occupying substantially the same volumetric space within the frame". The limitation "substantially the same" is a term of degree which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear how much less space or how different a space may be occupied while still meeting the claim language.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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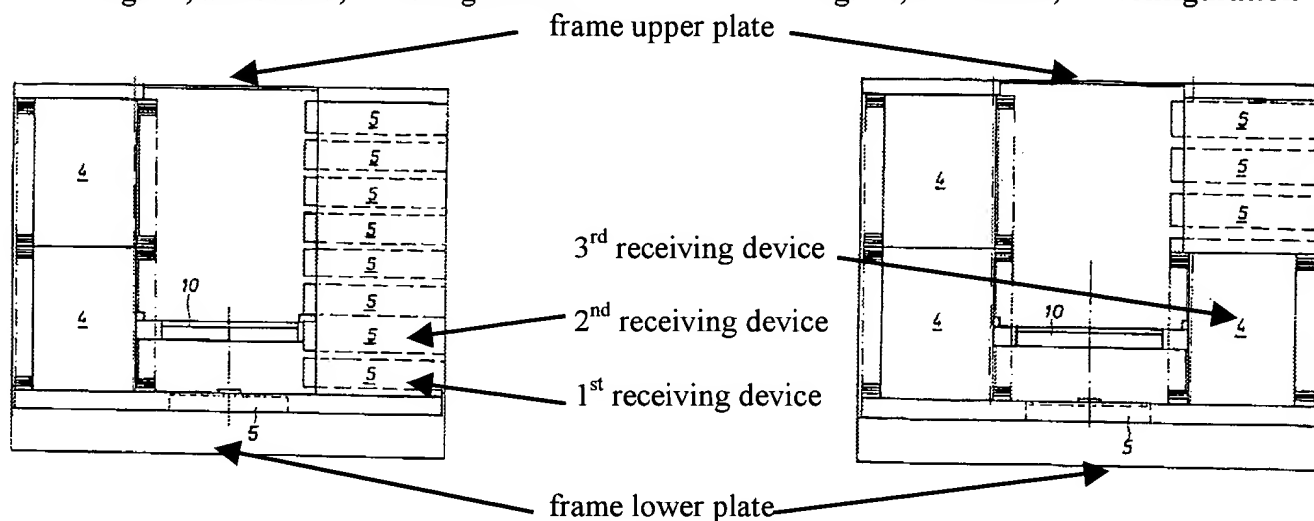
6. Claims 1, 5, 14-15, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Menke et al (US Pat. No. 5841744).

Due to similarities in the recited subject matter, the independent claims are treated together.

As recited in claims 1, 14 and 20, Menke et al show a reconfigurable cartridge processing module for use in a data storage system, comprising: a frame, said frame having a lower plate and an upper plate positioned in generally parallel, spaced-apart relation, said lower and upper plates of said frame having a plurality of sets of mounting locations provided thereon so that said frame defines a first component configuration (see Fig. 15) and a second component configuration (see Fig. 14), the first component configuration comprising: a first cartridge receiving device 5 mounted to a first set of the plurality of sets of mounting locations provided on said frame so that said first cartridge receiving device is located at a first position within said frame; and a second cartridge receiving device 5 mounted to a second set of the plurality of sets of mounting locations provided on said frame so that said second cartridge receiving device is located at a second position within said frame, said first and second cartridge receiving devices together occupying a volumetric space within said frame, wherein said first and second cartridge receiving devices are located substantially between the upper and lower plates of said frame when said frame is in the first component configuration; the second component configuration comprising a third cartridge receiving device 4 mounted to a third set of the plurality of sets of mounting locations provided on said frame, said third cartridge receiving device occupying substantially the same volumetric space within said frame as is occupied by said first and second cartridge receiving devices in said first component configuration (see annotated Figs. 14-15),

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wherein said third cartridge receiving device is located substantially between the upper and lower plates of said frame when said frame is in the second component configuration.

Fig. 15, annotated, 1st configuration**Fig. 14, annotated, 2nd configuration**

The above is only one example of many possible interpretations of the reference which satisfy the claim language. Alternatively, Fig. 14 may be interpreted as the first configuration with Fig. 13 as the second configuration.

As recited in claims 5 and 15, Menke et al show that the second position is located adjacent the first position so that said second cartridge receiving device is located adjacent said first cartridge receiving device when said frame is in the first component configuration (see positions of 1st receiving device and 2nd receiving device in Fig. 15 annotated above).

As recited in claim 17, Menke et al show that said first cartridge receiving means comprises cartridge read/write means 5 for reading data from and writing data to said at least one data cartridge 7.

7. Claims 1-6 and 10-20, insofar as they are understood in view of the indefiniteness rejections, are rejected under 35 U.S.C. 102(b) as being anticipated by Kersey et al (US Pat. No. 5870245).

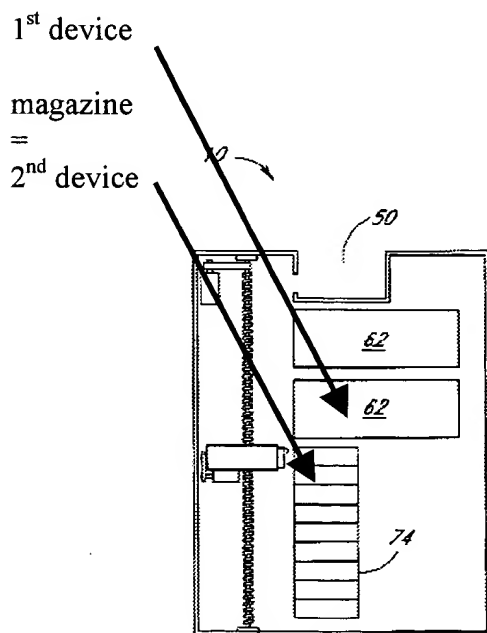
Due to similarities in the recited subject matter, the independent claims are treated together.

The following interpretation is applied by the Examiner for the rejection of claims 1, 3, 10, 12, 14, 18 and 20.

As recited in claims 1, 3, 5-6, 10, 12, 14-18 and 20, insofar as they are understood in view of the indefiniteness rejections, Kersey et al show a reconfigurable cartridge processing module (see teachings in paper no. 5 and arguments below).

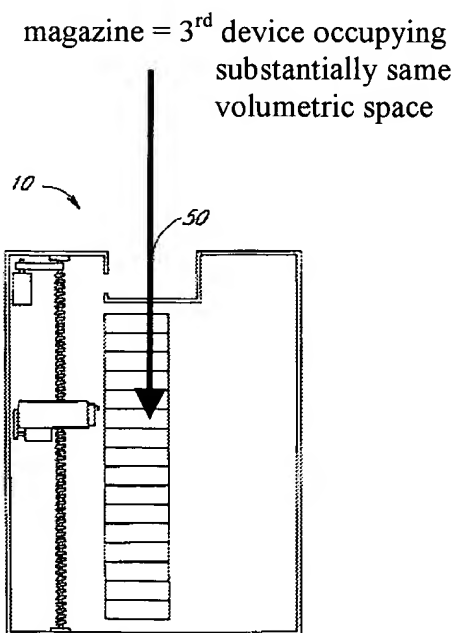
Kersey et al Fig. 4b (annotated)

= first configuration



Kersey et al Fig. 4c (annotated)

= second configuration



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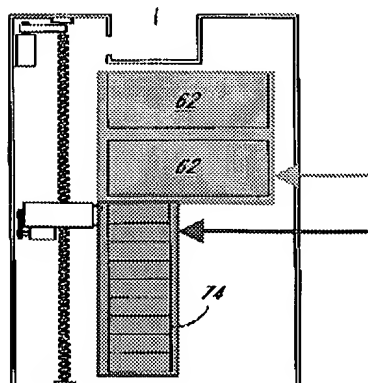
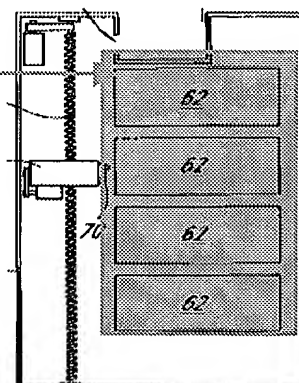
As recited in claims 3, 12 and 18, Kersey et al show that said second cartridge receiving device 74 comprises a cartridge storage magazine.

As recited in claims 5 and 15, Kersey et al show that the second position is located adjacent the first position so that said second cartridge receiving device 74 is located adjacent (see Fig. 5) said first cartridge receiving device 62 when said frame is in the first component configuration.

As recited in claims 6 and 16, Kersey et al show that the second position is located alongside the first position so that said second cartridge receiving device 74 is located alongside (see Fig. 5) said first cartridge receiving device 62 when said frame is in the first component configuration.

As recited in claim 17, Kersey et al show that said first cartridge receiving means comprises cartridge read/write means 62 for reading data from and writing data to said at least one data cartridge.

The following interpretation is applied by the Examiner for the rejection of claims 1-2, 4, 10-11, 13-14 and 19-20.

Kersey et al Fig. 4b (annotated)**= first configuration****Kersey et al Fig. 4a (annotated)****= second configuration**

See arguments below regarding independent claims 1, 10, 14 and 20.

As recited in claims 2 and 11, Kersey et al show that said first cartridge receiving device (drives 62 and 62 taken together) comprises a half-width cartridge read/write device (said device is half-width insofar as it occupies substantially half the width of the frame; see Fig. 5).

As recited in claims 4 and 13, Kersey et al show that said third cartridge receiving device (drives 62 and 62 and 62 and 62 taken together) comprises a full-width cartridge read/write device (said device is full-width insofar as it occupies substantially the full width of the frame).

As recited in claim 19, Kersey et al show that said third cartridge receiving means (drives 62 and 62 and 62 and 62 taken together) comprises cartridge read/write means 62 for reading data from and writing data to said at least one data cartridge.

Response to Arguments

8. Applicant's arguments filed October 11, 2002, have been fully considered but they are not persuasive.

On page 10, Applicant argues that "the full-length cartridge rack 50 of Figure 4c, fails to meet the requirements of claim 1 in that the full-length cartridge rack 50 does not "occupy substantially the same volumetric space within said frame as is occupied by" the tape drive 62 and cartridge rack 74 of Figure 4b. Instead, the full-length cartridge rack 50 also occupies the space previously occupied by the upper tape drive 62. Stated another way, in Kersey, the third cartridge receiving device (e.g., Kersey's full-length cartridge rack 50) in the second configuration (Kersey's Figure 4c) occupies a space greater than that occupied by the first and second cartridge receiving devices (e.g., Kersey's lower tape drive 62 and rack 74) in the first configuration (Kersey's Figure 4b)." The Examiner has considered this argument thoroughly and

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agrees that, in Kersey, the third cartridge receiving device (e.g., Kersey's full-length cartridge rack 50) in the second configuration (Kersey's Figure 4c) occupies a space greater than that occupied by the first and second cartridge receiving devices (e.g., Kersey's lower tape drive 62 and rack 74) in the first configuration (Kersey's Figure 4b).

The Examiner notes, however, that the independent claims require that said volumetric space be occupied by said third cartridge receiving device. This limitation has been met. Nothing in the claims precludes the third cartridge receiving device from occupying additional space.

Furthermore, the limitation "occupy substantially the same volumetric space within said frame" renders the claims indefinite as described above. Neither claims nor specification provides guidance for the interpretation of the word "substantially". For examination purposes, the limitation has been interpreted broadly.

Moreover, nothing in the claims precludes the interpretation applied above for claims 1-2, 4, 10-11, 13-14 and 19-20, wherein the 1st and 3rd cartridge receiving devices each comprise more than one drive 62. Clearly, the limitation "occupying substantially the same volumetric space within the frame" is met.

It is noted that Applicant has only argued the dependent claims by virtue of their dependency from independent claims. These arguments are moot in view of the anticipation of the independent claims.

Applicant's arguments with respect to Dankman et al have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Anne Watko whose telephone number is (703) 305-7742. The examiner can normally be reached on Mon-Thurs 7:30-5 and alternate Fri 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Julie Anne Watko
Examiner
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A handwritten signature in black ink, appearing to read 'Julie Anne Watko', with a stylized, flowing script.

JAW
January 2, 2003